

# **North Smithfield Zoning Board of Review**

**Meeting Minutes of April 8, 2008**

**Primrose Fire Station, 1470 Providence Pike, North Smithfield**

**The Chair called the meeting to order at 7:00 pm.**

## **I. Roll call**

**Present: Vincent Marcantonio, Steven Scarpelli, Stephen Kearns, Mario DiNunzio, Dean Naylor (arrived at 7:20 pm), Bill Juhr (arrived at 7:28 pm). Absent: Guy Denizard. Also present: Building Official Bob Benoit, Assistant Solicitor Bob Rossi.**

## **II. Workshop Discussion:**

### **I. Zoning Fees, including tie in with Land Development and Subdivision Regulations**

**Mr. Marcantonio informed the Board that the fees and requirements of appeals of Planning Board decisions should tie in with those listed in the Land Development and Subdivision Regulations. The Chair has spoken with the Planning Department about the fees and requirements for appeals, and the town planner has agreed to work with the Zoning Department to correct any discrepancies between the two (Zoning Ordinance & Land Development and Subdivision Regulations). The Chair thinks that the current zoning requirements are better than those of the Land Development Regulations, especially in regard to charging extra fees for hearings in excess of one meeting. The Chair and the Town Planner would like land**

development regulations to reflect the same requirements and fees as the Zoning Board Fee schedule.

Mr. Kearns discussed peer review and the request for expert witnesses from the applicant. Mr. Rossi stated that the Board cannot request its own evidence to appear before it; it can only weigh the testimony of applicant's witnesses, with regard to experience, education, etc. Mr. DiNunzio asked if the Board could request an expert to advise on the expertise of the applicant's expert. Mr. Benoit stated that the Board has never hired an expert. Mr. Kearns stated that the Board reviews the credentials of the expert and decides whether or not to accept the qualifications of the expert. The Board can weigh discrepancies in testimony and responses to questions posed and, based on this, decide that evidence presented does not prove the information to which the witness is testifying. The Planning Board can ask for peer review on plans and drawings presented, and any opposition can bring an attorney to question the expert. Each Board member can question the witness. Mr. Benoit referred to Section 5.6.2, which states that the Board can request any additional information, i.e., traffic engineer to conduct a traffic study, but the Board cannot hire its own expert to conduct a study. Mr. Rossi read from Rhode Island Zoning Handbook, which states that expert testimony can be weighed against other testimony, as well as personal knowledge of the Board. The Board should refer to the expert's experience and qualifications when weighing testimony.

Mr. Naylor asked what to do, for instance, with a traffic study submitted as a report with no expert witness present at hearing. Mr. Rossi replied that the Board could state that they have questions raised by report and request the witness to appear before the Board. Witnesses can also be disqualified as an expert if experience and education is not sufficient to the Board. The applicant can then present an offer of proof and present the information to which the expert would have testified. In the past, the Zoning Board would accept testimony, but not qualify any person as an expert witness. However, the Board would present the witness's resume and qualifications for the record. When there are discrepancies in different witnesses' testimony, the Board should question the expert for more information.

The Board discussed whether to have an additional fee if an applicant needs both a special use permit and a variance. Mr. Kearns suggested adding in an additional \$100 for more than one request. Mr. Rossi suggested added wording of "In addition to the filing fees cost..." at the beginning of the fee schedule.

Mr. DiNunzio made a motion that the Schedule of Fees document be presented to the Town Council for approval. Mr. Scarpelli seconded the motion, with all in favor. Mr. Scarpelli made a motion to amend Appendix A, paragraph 1, page 140, of the Zoning Ordinance to reflect the fee schedule as presented in the document. Mr. Kearns seconded the motion, with all in favor.

**Mr. Kearns made a motion that the Zoning Ordinance be appropriately amended to include the approved fee schedule. Mr. Scarpelli seconded the motion, with all in favor.**

## **2. Zoning Board decisions that were not executed properly in the Land Evidence Record and/or official Zoning Maps.**

**The Chair stated that Town Council member Paul Zwolenski had referred to a zoning decision that was not executed properly. The decision was dated March 24, 1997, concerning the property at Plat 4, Lot 425. As part of that decision the Board moved the zone 50 feet, but the Zoning map reflects that the zone was moved further than 50 feet. The Board reviewed the maps at the desk and agreed that the line should be moved on the map to reflect a 53-foot buffer, which would extend the zone 50 feet. The Chair stated that he was bringing this to the Board's attention so they would be aware of the matter. Mr. Benoit said he will make sure that the zoning map is corrected to accurately reflect the Board's decision.**

## **3. Update on Zoning Enforcement**

**Mr. Benoit updated the Board that all three pending cases should be heard in court on April 17 and April 24, 2008.**

## **4. Mixed Use Ordinance Discussion**

**The Chair reported on discussions that he had been involved in as part of the town's Ordinance Review Committee, concerning the creation of mixed use districts in town. The design of such areas includes allowing buildings to be built at the street with parking in back, with tenants on both the 1st and 2nd floors. An overlay is being made of the whole town, but other than Branch Village, zones have not been established yet. Mr. Naylor stated that he is concerned that it is an old way of building and this type of building has had to be torn down in other cities (Pawtucket and Woonsocket). The Board suggested that the town takes a more cautious approach and try it in Branch Village to see if it works. The Board also discussed that village plan development is in place in other towns, such as Burrillville.**

**Mr. Scarpelli made a motion to adjourn at 8:58, seconded by Mr. Kearns with all in favor.**

**Respectfully submitted,**

**Angela Pugliese**

**Zoning Board Clerk**